In the Supreme Court of the United States

OCTOBER TERM, 1934

No. 13, Original

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF OREGON, DEFENDANT

The United States of America, plaintiff herein, herewith submits a form of decree carrying into effect the conclusions announced in the opinion of the Court, delivered on the first day of April 1935.

Respectfully submitted,

STANLEY REED,
Solicitor General.

DECREE

This cause came on to be heard by this Court upon the exceptions of the parties hereto to the Report of the Special Master.

Now, therefore, for the purpose of carrying into effect the conclusions of the Court as stated in its opinion, dated April 1, 1935, it is ordered, adjudged and decreed that:

1. At the time of the admission of the State of Oregon into the Union, February 14, 1859, and for a long time immediately prior thereto the United States of America was the owner in fee, and entitled to the possession of (a) 81,786 acres of unsurveyed land (including the tract of 115.92 acres mentioned in findings VI and VII of the Special Master), within the meander line boundary divided for the purposes of this case into five divisions, (1) Malheur Lake; (2) Narrows; (3) Mud Lake; (4) Sand Reef and (5) Harney Lake; (b) the area within the Executive Order boundary embracing all the smallest legal subdivisions bordering upon the meander line boundary; (c) all of the smallest legal subdivisions bordering on the above 115.92 acres, and (d) all of the surrounding region for many miles. The area within the meander line boundary (which includes the above 115.92 acres) and the five divisions aforesaid is specifically described in paragraph thirteen of this decree.

2. No part of said 81,786 acres within the meander line boundary constituted navigable waters on February 14, 1859, and no part thereof passed from the United States of America to the State of Oregon upon her admission into the Union.

3. At the admission of the State of Oregon into the Union there were stable lands constituting islands or promontories within the area involved; and all lands above the water surface elevation of 4,093 on that day were stable lands and ever since

have been and now are owned in fee simple absolute by the United States of America (except stable lands within the Narrows Division, if any).

4. The United States of America has never disposed of any part of the area involved in terms, nor at all, except such disposition, if any, as may have resulted (as matter of law) from patents, grants and listings of lands bordering on the meander line boundary and not within the area involved.

5. The State of Oregon is the owner of upland having a frontage of 159.67 chains along the meander line in subdivision B of the Narrows Division (between the bridge and Mud Lake Division). 70.52 chains of this frontage are on the north boundary and 89.15 chains on the south boundary. The frontage of the State of Oregon on subdivision B of the Narrows Division constitutes 86.85% of the total frontage of 183.85 chains in that subdivision. The State of Oregon is the owner in fee simple absolute of the bed of subdivision B of the Narrows Division to the center line thereof opposite her upland frontage, subject to the rights retained by the United States in its patents of the upland as to ditches and canals, and subject to the flowage of water through the Narrows from the Malheur Division to the Mud Lake Division.

6. The United States of America has no right, title, or interest whatever in the area known as the "Narrows Division", except the rights retained by its patents to adjacent uplands as to ditches and

canals and the continuing right to the passage of water from the Malheur Division to the Mud Lake Division through the said Narrows Division.

7. The United States of America is forever enjoined from asserting any estate, right, title, or interest against the estates, rights, titles, and interests herein owned and held by the State of Oregon in the Narrows Division, as determined in paragraph 5 of this decree.

8. The State of Oregon is the owner of upland having a frontage of 72.31 chains along the meander line in Mud Lake Division, which constitutes 8.96% of the total frontage of 806.94 chains on that division. The State of Oregon is the owner of a ratable portion of the bed of Mud Lake Division to the extent of 8.96% of said bed (as 72.31 chains bears to 806.94 chains) allowing for equitable considerations which may affect this ratio, subject to the rights as to ditches and canals retained by the United States in its patents of the uplands on Mud Lake Division, and subject to the flowage of water from the Narrows Division to the Sand Reef Division.

9. The United States of America is forever enjoined from asserting any estate, right, title, or interest against the estates, rights, titles, and interests owned and held by the State of Oregon in the Mud Lake Division, as determined in paragraph 8 of this decree.

10. The State of Oregon has no right, title, or interest whatever in or to any part of the area

within the meander line boundary except as determined in paragraphs 5 and 8 of this decree. Lots 1, 2, 3, Sec. 36, T. 26 S., R. 30 E. (north of Lake), in the Sand Reef Division; Lot 4 of said Sec. 36 and Lots 1, 2, 3, and 4 of Sec. 36, T. 27 S., R. 29½ E. in the Harney Lake Division were approved as to survey subsequent to the establishment of the Lake Malheur Reservation by Executive Order No. 929, dated August 18, 1908, and, therefore, did not pass to the State of Oregon as school lands, having been appropriated by the United States as a part of said reservation. Lots 1, 2, and 3 and SW¼SW¼ and SE¼NE¼ of Sec. 36, T. 26 S., R. 29 E., were surveyed prior to the establishment of the Lake Malheur Reservation, and, therefore, passed to the State of Oregon as school lands. The State of Oregon having claimed and received lieu lands elsewhere for deficiency in school lands in said T. 26 S., R. 29 E., it acquired no interest with said lots in the area within the meander line, purporting to surround Harney Lake, as an incident to its ownership of the upland.

11. Except as determined in paragraphs 5 and 8 of this decree, the United States of America is the owner in fee simple absolute, and entitled to the possession, of all the area here involved, except such parts thereof, if any, as may have been, as matter of law, transferred by the United States of America by patents of lands bordering on the meander line boundary; but as neither said patentees, nor their successors in interest (except insofar as the

State of Oregon is a successor in interest of some of the patentees), are parties to this suit, no determination is herein made in respect of the rights, titles, and interests, if any, acquired by said patentees in the areas within the meander line boundary.

12. The State of Oregon is forever enjoined from asserting any estate, right, title, or interest in or to any of the area involved herein except the estates, rights, titles, and interests determined in paragraphs 5 and 8 of this decree to be owned by said State.

13. The area here involved comprises 81,786 acres, more or less, of unsurveyed lands in Harney County, Oregon, divided into five Divisions, shown in Appendix 2 of the Special Master's Report, Volume 2, pages 7 to 25, inclusive, and more briefly described herein by metes and bounds as follows:

Malheur Lake Division (47,670.40 acres, more or less):

Begin at a point on the Neal Survey line of October 1895 N. 88° W. 54.00 chs. from the NE. corner of Lot 9, Sec. 25, T. 26 S., R. 30 E. W. M. (South of Malheur Lake); thence approximately N. 42° W. 32.50 chs. across unsurveyed lands to the most easterly corner of Lot 1, Sec. 25, T. 26 S., R. 31 E., North of Malheur Lake; thence, in T. 26 S., R. 31 E. (North of Malheur Lake), N. 80°15′ W. 16.32 chs.; N. 65°30′ W. 7.00 chs.; N. 83°15′ W. 9.17 chs.; N. 5° W. 15.00 chs.; N. 00° 20.00 chs.; N. 9° E. 12.00 chs.; N. 73° E. 15.50 chs.; N. 47° 30′ E. 7.00 chs.; N. 14°30′ E. 11.00 chs.; N. 11°30′ E. 7.00 chs.; N. 65°30′ W. 4.00 chs.; S. 49°30′ W. 7.54 chs.; N. 63° W. 4.00 chs.; N. 55° 30′ W. 5.00 chs.; N. 33° E. 6.65 chs.; N. 23° W. 3.00 chs.; N. 39° E. 9.00 chs.; N. 76° W. 3.00 chs.; N. 00° 4.00 chs.; N. 48°45′ E. 2.76 chs.; N. 41° E. 7.50 chs.; N. 62°30′ E. 6.00 chs.; N. 80° E. 6.00 chs.; S. 14° E. 11.00 chs.; S. 82°30′ W. 9.00 chs.; S. 72° E. 9.50 chs.; N. 55° E. 3.50 chs.; E. 00° 4.50 chs.; S. 25° E. 3.50 chs.; S. 32½° W.

11.95 chs.; S. 28° W. 5.00 chs.; S. 82°30′ E. 6.00 chs.; N. 53°30′ E. 8.73 chs.; N. 37° E. 6.50 chs.; E. 00° 5.00 chs.; N. 28° E. 7.00 chs.; N. 9° W. 5.50 chs.; N. 63°30′ W. 5.50 chs.; N. 29° E. 3.00 chs.; N. 61°30′ E. 4.00 chs.; N. 71° E. 4.50 chs.; S. 67° E. 4.50 chs.; N. 24° E. 3.50 chs.; S. 42° E. 1.70 chs.; N. 73° E. 4.00 chs.; S. 48° E. 5.00 chs.; S. 9° E. 4.00 chs.; N. 82°30′ E. 4.00 chs.; S. 3° E. 13.00 chs.; N. 44° E. 5.50 chs.; N. 22° E. 7.00 chs.; N. 47°30′ W. 9.00 chs.; N. 00° 5.00 chs.; N. 82°30′ E. 7.00 chs.; S. 78° E. 4.00 chs.; N. 84° E. 2.21 chs.;

Thence, in T. 26 S. R. 32 E. (North of Malheur Lake) N. 41° E. 5.50 chs.; S. 61° E. 8.00 chs.; S. 27° E. 9.00 chs.; N. 65°30′ E. 3.50 chs.; S. 63°30′ E. 4.00 chs.; N. 00° 7.00 chs.; N. 50° W. 5.00 chs.; N. 00° 3.00 chs.; S. 65° E. 6.00 chs.; N. 54° E. 3.50 chs.; S. 75°30′ E. 5.00 chs.; N. 85° E. 4.00 chs.; N. 60° E. 5.00 chs.; N. 2°30′ W. 8.00 chs.; N. 87° E. 3.00 chs.; S. 59° E. 5.50 chs.; N. 52° E. 4.00 chs.; S. 32° E. 5.00 chs.; N. 69° E. 5.00 chs.; N. 32° E. 4.50 chs.; S. 50° E. 6.00 chs.; N. 51° E. 3.50 chs.; N. 58° E. 5.50 chs.; N. 80° E. 6.00 chs.; S. 60°15′ E. 3.20 chs.; N. 8°30′ E. 2.00 chs.; N. 45°30′ E. 3.00 chs.; S. 64°30′ E. 2.50 chs.; N. 44° E. 5.00 chs.; S. 81° E. 2.50 chs.; S. 27°30′ E. 3.50 chs.; S. 67° E. 3.00 chs.; N. 30°30′ E. 5.00 chs.; N. 18°30′ E. 3.00 chs.; N. 77° W. 6.00 chs.; N. 48°30′ E. 7.00 chs.; S. 88° E. 8.50 chs.; S. 46° E. 8.00 chs.; N. 13° W. 4.50 chs.; N. 34°30′ W. 4.00 chs.; N. 46° E. 23.00 chs.; N. 13°30′ W. 1.89 chs.; N. 24°30′ E. 2.00 chs.; S. 88° E. 7.00 chs.; N. 35° W. 14.00 chs.; N. 7°30′ W. 3.00 chs.; N. 62° E. 7.00 chs.; S. 60° E. 8.50 chs.; N. 70°30′ E. 10.00 chs.; N. 84°30′ E. 6.00 chs.; N. 33°30′ E. 9.00 chs.; N. 23° W. 8.00 chs.; N. 23° E. 8.00 chs.; N. 35°30′ W. 8.00 chs.; N. 23° E. 6.00 chs.; S. 69°45′ E. 4.92 chs.; N. 33° E. 10.00 chs.; N. 83° E. 12.00 chs.; S. 53° E. 8.00 chs.; N. 28°30′ E. 7.00 chs.; N. 43°30′ W. 6.00 chs.; N. 33°30′ E. 2.00 chs.; S. 82°30′ E. 4.00 chs.; N. 69° E. 11.00 chs.; N. 26°30′ W. 4.50 chs.; N. 56°30′ W. 6.04 chs.; N. 31°30′ W. 7.50 chs.; N. 5°30′ E. 12.00 chs.; N. 32°30′ E. 16.00 chs.; S. 53°30′ E. 12.00 chs.; S. 16° W. 9.00 chs.; S. 5°30′ E. 9.00 chs.; S. 26°15′ E. 7.90 chs.; S. 00° 9.00 chs.; S. 9°30′ W. 7.00 chs.; S. 81°30′ E. 13.00 chs.; N. 22° E. 7.00 chs.; N. 5° E. 4.00 chs.; N. 18° E. 7.82 chs.; N. 4°30′ E. 4.80 chs.; N. 89° E. 14.07 chs.; N. 48°30′ E. 11.00 chs.;

S. 36° E. 9.00 chs.; S. 21°30′ W. 5.35 chs.; S. 17° W. 31.00 chs.; N. 43°30′ E. 9.00 chs.; N. 51°30′ E. 6.50 chs.; S. 37° E. 6.00 chs.; N. 37°30′ E. 6.00 chs.; N. 52° E. 14.00 chs.; N. 55°30′ W. 18.90 chs.; N. 33° E. 3.00 chs.; N. 61°30′ E. 6.00 chs.; S. 37° E. 3.00 chs.; N. 39°30′ E. 10.00 chs.; S. 23°30′ E. 11.00 chs.; N. 47° E. 7.00 chs.; S. 52°30′ E. 8.00 chs.; N. 80° E. 4.16 chs.; N. 35° E. 21.00 chs.; N. 47°30′ W. 27.00 chs.; N. 26° W. 16.00 chs.; N. 45° E. 15.00 chs.; S. 20°30′ E. 9.00 chs.; S. 69° E. 6.00 chs.; S. 9° E. 14.00 chs.; N. 88° E. 14.00 chs.; N. 62° E. 4.00 chs.; N. 42°30′ W. 10.00 chs.; N. 31°30′ E. 6.00 chs.; S. 56° E. 9.30 chs.; N. 43° E. 9.00 chs.; S. 37° E. 10.00 chs.; S. 81°30′ E. 23.00 chs.; N. 84°30′ E. 5.00 chs.; N. 7° E. 11.00 chs.; N. 55° E. 13.00 chs.; N. 67°30′ E. 10.00 chs.; S. 24°30′ E. 3.50 chs.; S. 67°30′ E. 10.50 chs.; S. 43°30′ E. 8.00 chs.; S. 2°30′ W. 10.00 chs.; S. 45° W. 6.50 chs.; N. 42°30′ W. 9.00 chs.; S. 75°30′ W. 3.50 chs.; S. 00° 3.00 chs.; S. 39° E. 12.00 chs.; S. 17°30′ W. 8.00 chs.; S. 73°30′ E. 11.66 chs.; N. 26°30′ E. 13.00 chs.; N. 32° W. 8.00 chs.; N. 19° E. 16.00 chs.; N. 55°30′ W. 8.00 chs.; N. 22°30′ E. 23.00 chs.; N. 76°30′ E. 6.43 chs.;

Thence, in T. 25 S., R. 32 E. (North of Malheur Lake) N. 70° E. 6.00 chs.; N. 25° E. 13.00 chs.; N. 56° E. 15.00 chs.; N. 36° E. 17.00 chs.; N. 53° E. 27.70 chs.;

Thence, in T. 25 S., R. 32½ E. N. 80° E. 39.00 chs.; N. 45° E. 15.00 chs.; N. 44° W. 4.00 chs.; N. 48° W. 8.50 chs.; N. 38°30′ E. 12.00 chs.; N. 20° W. 5.00 chs.; N. 14° E. 5.00 chs.; N. 53° E. 8.00 chs.; N. 80° E. 5.00 chs.; N. 19° W. 10.00 chs.; N. 18°15′ E. 19.70 chs.; N. 50° E. 20.00 chs.; N. 68° E. 37.50 chs.; N. 50°15′ E. 39.10 chs.; S. 49°30′ E. 15.00 chs.; East 30.00 chs.; S. 48° E. 21.80 chs.; S. 60° E. 21.00 chs.; N. 23°30′ E. 11.50 chs.; S. 62°45′ E. 12.82 chs.; S. 12°30′ E. 31.00 chs. S. 86°30′ E. 23.00 chs.; S. 63° E. 8.00 chs.; N. 20°30′ W. 24.00 chs.; N. 20° W. 4.00 chs.; N. 88° E. 9.00 chs.; N. 28° E. 12.00 chs.; N. 62°30′ E. 9.00 chs.; North 8.00 chs.; N. 65° W. 14.00 chs.; N. 40° E. 13.00 chs.; N. 45° E. 9.00 chs.; N. 71°30′ E. 18.00 chs.; N. 40° E. 12.00 chs.; S. 80° E. 20.00 chs.; S. 43° E. 20.00 chs.; S. 45°45′ E. 20.00 chs.; S. 29°45′ E. 15.00 chs.; S. 30° W. 36.00 chs.; N. 70° E. 12.00 chs.; N. 30° E. 20.00 chs.; N. 56° E. 17.20 chs.; S. 80° E. 30.00 chs.; S. 60° E. 20.00 chs.; S. 31° E. 34.00 chs.; N. 21° E. 9.00 chs.; S. 84° E. 12.70 chs.;

Thence, in T. 25 S., R. 33 E., N. 35°45′ E. 19.66 chs.; N. 56° E. 56.00 chs.; N. 24°30′ E. 12.00 chs.; N. 83° E. 8.00 chs.; East 9.00 chs.; S. 42° E. 11.00 chs.; S. 56° E. 20.00 chs.; S. 24° E. 27.00 chs.; S. 25° E. 21.00 chs.; S. 15° E. 18.00 chs.; S. 80°30′ E. 14.00 chs.; N. 12° E. 15.00 chs.; N 9° W. 19.00 chs.; N. 73°15′ E. 18.32 chs.; S. 55° E. 23.00 chs.; S. 23° E. 11.00 chs.; S. 9°30′ E. 34.00 chs.; S. 1°30′ E. 14.00 chs; S. 14° E. 9.57 chs.; S. 41° E. 6.00 chs.; S. 72°30′ E. 6.00 chs.; N. 80°30′ E. 39.39 chs.; S. 36° E. 55.00 chs.; S. 12° E. 36.20 chs.;

Thence, in T. 26 S., R. 33 E., S. 15° E. 50.00 chs; S. 3° E. 29.90 chs; S. 9°15′ E. 80.90 chs; S. 10° W. 15.00 chs; S. 50° W. 12.00 chs; N. 50° W. 10.00 chs; N. 73°30′ W. 21.80 chs; N. 75° W. 25.00 chs; S. 50° W. 26.00 chs; West 15.00 chs; N. 78°15′ W. 21.30 chs; N. 75° W. 12.00 chs; S. 5° W. 14.00 chs; N. 70° W. 25.00 chs; S. 50° W. 20.00 chs; S. 72° W. 30.00 chs; N. 55° W. 30.00 chs; N. 67° W. 58.00 chs.

Thence, in T. 26 S., R. 32 E. (South of Malheur Lake), S. 65° W. 17.00 chs.; S. 20° W. 10.00 chs.; S. 75° W. 40.00 chs.; S. 60° W. 26.00 chs.; S. 50°15′ W. 62.40 chs.; S. 50° W. 10.00 chs.; S. 77° W. 25.00 chs.; S. 60° W. 20.00 chs.; S. 21°15′ W. 62.20 chs.; S. 12° W. 40.00 chs.; S. 35° W. 20.00 chs.; N. 82°30′ W. 20.50 chs.; N. 80° W. 12.00 chs.; S. 50° W. 20.00 chs.; S. 74° W. 31.00 chs.; S. 38°30′ W. 9.85 chs.; S. 47°30′ W. 5.00 chs.; S. 21°30′ W. 11.00 chs.; South 12.00 chs.; S. 26° E. 11.00 chs.; S. 19°30′ E. 14.00 chs.; S. 18°30′ W. 14.00 chs.; S. 18° E. 6.00 chs.; S. 45°30′ W. 7.85 chs.;

Thence, in T. 27 S., R. 32 E., S. 6° W. 8.00 chs.; S. 51° W. 3.50 chs.; West 10.00 chs.; S. 75° W. 20.00 chs.; N. 47° W. 22.80 chs.;

Thence, in T. 26 S., R. 32 E. (South of Malheur Lake), N. 30° W. 40.00 chs.; N. 68°30′ W. 15.00 chs.; N. 75° W. 40.00 chs.; S. 85°30′ W. 36.25 chs.;

Thence, in T. 26 S., R. 31 E. (South of Malheur Lake), S. 86° W. 30.00 chs.; N. 29°30′ W. 39.90 chs.; N. 8° E. 13.00 chs.; N. 22° E. 23.00 chs.; N. 48°45′ W. 7.80 chs.; N. 31°30′ W. 10.00 chs.; S. 61°30′ W. 7.00 chs.; N. 69° W. 12.00 chs.; S. 16° W. 27.00 chs.; S. 66° W. 5.90 chs.; West 30.00 chs; N. 74° W. 52.20 chs.; S. 75° W. 11.00 chs.; S. 40° W. 22.00 chs.; West 12.00 chs.; S. 71° W. 45.80 chs.; N. 45° W. 70.00

chs.; N. 89° W. 30.20 chs.; N. 66° W. 34.00 chs.; West 23.00 chs.; N. 42° W. 5.00 chs.; N. 71°30′ W. 23.00 chs.; S. 87° W. 9.00 chs.; S. 55°30′ W. 16.00 chs.; N. 77° W. 18.00 chs.; S. 83°30′ W. 31.00 chs.; N. 79°30′ W. 7.88 chs.;

Thence, in T. 26 S., R. 30 E. (South of Malheur Lake), N. 88° W. 54.00 chs.; to the place of beginning;

Narrows Division (295.60 acres, more or less):

Begin at a point on the Neal Survey line of 1895 on the most Northwesterly corner of Lot 11, Sec. 25, T. 26 S., R. 30 E. Willamette Meridian; South of Malheur Lake;

Thence, in T. 26 S., R. 30 E. (South of Malheur Lake) S. 49°30′ W. 13.00 chs.; S. 65°15′ W. 18.05 chs.; S. 57° W. 13.00 chs.; S. 45° W. 19.00 chs.; S. 56° W. 7.00 chs.; S. 60°30′ W. 10.00 chs.; S. 30° W. 5.38 chs.; S. 27° W. 11.00 chs.; S. 64°30′ W. 8.50 chs.; N. 88° W. 13.00 chs.; S. 76° W. 5.00 chs.; N. 84° W. 8.45 chs.; S. 21° W. 4.70 chs.; S. 84°30′ W. 10.00 chs.; N. 84°30′ W. 14.00 chs.; N. 49° W. 8.00 chs.; West 4.00 chs.; to the most northwesterly corner of Lot 2, Sec. 27;

Thence, approximately N. 27° W. 31.40 chs.; across unsurveyed land to the most southwesterly corner on the west side of Lot 2, Sec. 27, T. 26 S., R. 31 E. (North of Malheur Lake);

Thence, in T. 26 S., R. 31 E. (North of Malheur Lake) S. 72°30′ E. 8.00 chs.; S. 41° E. 11.00 chs.; S. 77° E. 5.00 chs.; North 5.00 chs.; S. 55°30′ E. 11.00 chs.; S. 76° E. 11.00 chs.; East 4.00 chs.; S. 57° E. 5.00 chs.; S. 81° E. 18.00 chs.; S. 82° E. 9.00 chs.; N. 65° E. 4.00 chs.; N. 40° E. 6.80 chs.; N. 22° E. 6.00 chs.; N. 36°30′ E. 6.00 chs.; N. 63°30′ E. 6.50 chs.; N. 39° E. 5.00 chs.; N. 63° W. 4.00 chs; N. 72° W. 4.00 chs; North 3.00 chs.; N. 37°30′ E. 8.00 chs.; North 4.00 chs.; N. 51° E. 5.00 chs.; N. 26° E. 7.00 chs.; N. 63° E. 13.00 chs.; N. 42°30′ E. 9.07 chs.; N. 62° E. 14.00 chs.; N. 27°30′ E. 8.00 chs.; North 4.00 chs.; to the most easterly corner of Lot 1, Sec. 25, T. 26 S., R. 31 E. (North of Malheur Lake);

Thence, approximately S. 42° E. 32.50 chs.; with the Malheur Division across unsurveyed land to the most northwesterly corner of Lot 11, Sec. 25, T. 26 S., R. 30 E. (South of Malheur Lake); the place of beginning.

Mud Lake Division (1,466.00 acres, more or less):

Beginning at a point on the most northwesterly corner of Lot 2, Sec. 27, T. 26 S., R. 30 E. (South of Malheur Lake);

Thence in T. 26 S. R. 30 E. (South of Malheur Lake) S. 9° E. 8.00 chs.; S. 26°30′ W. 8.18 chs.; S. 61°30′ W. 8.25 chs.; N. 45° W. 10.00 chs.; S. 28° W. 5.00 chs.; S. 7°30′ W. 20.00 chs.; S. 26° W. 15.00 chs.; S. 32° W. 12.00 chs.; S. 56° W. 11.00 chs.; S. 65° W. 16.80 chs.; S. 59° W. 20.00 chs.; N. 65°30′ W. 3.00 chs.; N. 88° W. 22.00 chs.; N. 64°30′ W. 12.00 chs.; N. 41°30′ E. 24.00 chs.; N. 50°30′ W. 6.00 chs.; N. 89° W. 19.00 chs.; N. 45° W. 6.00 chs.; N. 19°15′ W. 13.78 chs.; N. 35°30′ E. 8.00 chs.; N. 67° E. 10.00 chs.; N. 26° E. 6.00 chs.; N. 48° E. 8.00 chs.; N. 10° W. 8.00 chs.; N. 64°30′ W. 6.75 chs.; S. 54°30′ W. 5.00 chs.; S. 18°15′ W. 8.29 chs.; S. 57°30′ W. 4.00 chs.; S. 55° W. 16.00 chs.; S. 75° W. 10.00 chs.; S. 11° W. 8.00 chs.; S. 15° E. 17.00 chs.; S. 3° W. 26.00 chs.; West 18.00 chs.; N. 13° W. 40.00 chs.; N. 45°30′ W. 5.00 chs.; S. 46° W. 10.00 chs.; S. 17°30′ E. 22.00 chs.; S. 46° W. 13.00 chs.; S. 14°30′ W. 14.00 chs.; to the southwest corner of Lot 5, Sec. 32, T. 26 S., R. 30 E. (South of Malheur Lake);

Thence, approximately N. 32°30′ W. 58.70 chs.; across unsurveyed land to the most southwesterly corner of lot 4, Sec. 32, T. 26 S., R. 31 E. (North of Malheur Lake);

Thence, S. 65° E. 13.00 chs.; East 6.50 chs.; N. 68°30′ E. 3.00 chs.; N. 9° E. 7.50 chs.; N. 69° E. 26.00 chs.; N. 45°30′ E. 8.00 chs.; N. 61°30′ E. 9.00 chs.; S. 42° E. 9.00 chs.; N. 81° E. 4.00 chs.; N. 24°30′ E. 11.00 chs.; S. 87° E. 3.00 chs.; S. 63°30′ E. 4.14 chs.; S. 66° E. 5.00 chs.; N. 55° E. 7.00 chs.; S. 82°30′ E. 3.60 chs.; N. 21°30′ E. 5.00 chs.; N. 37° W. 12.00 chs.; S. 86°15′ W. 8.53 chs.; North 12.00 chs.; N. 54°30′ E. 10.00 chs.; N. 83° E. 10.00 chs.; N. 53° E. 10.00 chs.; N. 26° E. 10.00 chs.; N. 57° E. 14.00 chs.; N. 61° E. 10.00 chs.; N. 36° E. 12.00 chs.; S. 75°30′ E. 14.00 chs.; S. 62° E. 9.00 chs.; S. 38° E. 3.62 chs.; S. 62°30′ E. 11.00 chs.; S. 72°30′ E. 9.00 chs.; S. 69° E. 20.00 chs.; S. 42°30′ E. 4.00 chs.; to the most southwesterly point on the west boundary of Lot 2, Sec. 27, T. 26 S., R. 31 E. (North of Malheur Lake);

Thence, with the west line of the Narrows Division approximately S. 27° E. 31.40 chs.; to the most northwesterly corner of Lot 2, Sec. 27, T. 26 S., R. 30 E. (South of Malheur Lake); the place of beginning.

Sand Reef Division (2,792.00 acres, more or less):

Begin at a point at the southwesterly corner of Lot 5, Sec. 32, T. 26 S., R. 30 E. (South of Malheur Lake);

Thence, in T. 27 S., R. 30 E. (South of Malheur Lake), S. 68° E. 16.95 chs.; S. 20° E. 11.00 chs.; S. 36° E. 13.00 chs.; S. 41° E. 17.00 chs.; N. 66° E. 30.00 chs.; S. 51° E. 21.29 chs.; S. 15°30′ E. 17.00 chs.; S. 28° W. 26.00 chs.; S. 49°15′ W. 12.13 chs.; S. 49°15′ W. 36.65 chs.; S. 26° W. 21.00 chs.; S. 30°30′ E. 19.00 chs.; S. 8° E. 13.00 chs.; S. 9°15′ E. 45.20 chs.; S. 10° W. 18.00 chs.; S. 21° W. 13.00 chs.; N. 80° W. 21.00 chs.; N. 53° W. 21.00 chs.; N. 43° W. 25.00 chs.; N. 88° 45′ W. 27.35 chs.; to the northwesterly corner of Lot 2, Sec. 18, T. 27 S., R. 30 E. (South of Malheur Lake);

Thence, in a northwesterly direction across unsurveyed land along the west base of The Sand Reef on the 4,095 ft. contour line, a distance of approximately 303.75 chs.; to the southwest corner of Lot. 3, Sec. 36, T. 26 S., R. 30 E. (North of Harney Lake);

Thence, in T. 26 S., R. 30 E. (North of Harney Lake) S. 89° E. 61.18 chs.; thence, in T. 26 S., R. 31 E. (North of Malheur Lake), north 52°30′ E. 8.00 chs.; south 78° E. 4.00 chs.; N. 68° E. 16.00 chs.; S. 44°30′ E. 6.50 chs.; S. 26° E. 6.00 chs.; S. 3° E. 10.00 chs.; S. 34°30′ E. 12.00 chs.; S. 48° 30′ E. 8.50 chs.; East 4.00 chs.; N. 50° E. 17.00 chs.; N. 30° E. 14.00 chs.; N. 82° E. 9.21 chs.; to the southwest corner of Lot 4, Sec. 32, T. 26 S., R. 31 E. (North of Malheur Lake);

Thence along the west line of the Mud Lake Division across unsurveyed land approximately S. 32°30′ E. 58.70 chs.; to the southwest corner of Lot 5, Sec. 32, T. 26 S., R. 30 E. (South of Malheur Lake); the place of beginning.

Harney Lake Division (29,562.00 acres, more or less):

Begin at the northwesterly corner of Lot 2, Sec. 18, T. 27 S., R. 30 E. (South of Malheur Lake);

Thence, in T. 27 S., R. 30 E. (South of Malheur Lake) south 11° W. 41.40 chs.; S. 12° W. 20.22 chs.; West 3.00 chs.; S. 23°15′ W. 67.00 chs.; S. 22°30′ W. 26.00 chs.; thence, in T. 27 S., R. 29½ E., S. 25°30′ W. 21.00 chs.; S. 28° W. 9.00 chs.; S. 63°30′ W. 3.40 chs.; S. 2°30′ E. 12.00 chs.; S. 10°30′ W. 10.90 chs.; S. 23° W. 12.30 chs.; S. 30°30′ W. 22.00 chs.; S. 34°30′ W. 25.00 chs.; S. 37° W. 12.00 chs.; S. 22° E. 21.00 chs.; thence in T. 28 S., R. 29¾ E., S. 9°30′ E. 11.00 chs.;

S. 12°30′ W. 9.00 chs.; S. 45° W. 11.00 chs.; S. 82°30′ W. 10.00 chs.; N. 74° W. 10.00 chs.; S. 79° W. 6.20 chs.; S. 79° W. 1.80 chs.; N. 36°30′ W. 8.60 chs.; N. 25°30′ W. 9.00 chs.; S. 84° E. 6.00 chs.; N. 45°30′ W. 6.00 chs.; N. 7°30′ W. 9.30 chs.; thence in T. 27 S., R. 29½ E., N. 35°30′ W. 6.80 chs.; N. 46° W. 16.00 chs.; N. 56° W. 15.00 chs.; N. 65° W. 4.00 chs.; N. 77°30′ W. 10.50 chs.; S. 79° W. 17.00 chs.; S. 82°30′ W. 11.00 chs.; S. 85° W. 10.80 chs.; N. 86° W. 10.00 chs.; S. 79° W. 19.00 chs.; S. 73° W. 15.00 chs.; N. 80° W. 7.00 chs.; N. 53°30′ W. 4.00 chs.; N. 87° W. 4.80 chs.; S. 75° W. 12.00 chs.; S. 85° W. 19.50 chs.; N. 76° W. 8.00 chs.; N. 33° W. 44.00 chs.; N. 42° W. 26.00 chs.; N. 26° W. 8.00 chs.; N. 17°15′ W., 26.50 chs.; N. 17°30′ W. 9.70 chs.; S. 55°30′ E. 3.50 chs.; S. 55°30′ E. 9.00 chs.; N. 43°30′ W. 9.50 chs.; N. 64° W. 1.00 chs.; N. 64° W. 9.00 chs.; N. 76°30′ W. 15.00 chs.; N. 67°30′ W. 15.00 chs.; N. 82° W. 19.70 chs.; S. 15°30′ E. 3.40 chs.; S. 45° W. 14.00 chs.; S. 50° W. 20.00 chs.; S. 62°30′ W. 15.00 chs.; N. 76°30′ W. 14.70 chs.; N. 78° W. 4.00 chs.; N. 77° W. 23.40 chs.; N. 88° W. 9.90 chs.; N. 68° W. 16.80 chs.; N. 84°30′ W. 7.50 chs.; N. 88°30′ W. 2.40 chs.;

Thence, in T. 27 S., R. 29 E., N. 45° W. 42.00 chs.; N. 42° W. 8.50 chs.; N. 63°03′ W. 7.10 chs.; N. 70° W. 5.00 chs.; N. 42°30′ W. 31.00 chs.; N. 51° W. 16.49 chs.; N. 46°30′ W. 27.00 chs.; N. 39°45′ W. 20.00 chs.; N. 42°15′ W. 14.90 chs.; N. 15°15′ W. 38.00 chs.; N. 31°15′ W. 17.00 chs.; N. 4°43′ W. 29.52 chs.; N. 14° W. 14.00 chs.; N. 47°30′ E. 16.50 chs.; N. 8° E. 30.00 chs.; N. 31°30′ E. 30.09 chs.; N. 24° E. 33.00 chs.; N. 11° E. 30.00 chs.; N. 72° E. 11.00 chs.; N. 82° E. 6.10 chs.; N. 45° E. 18.36 chs.; S. 89°39′ E. 22.00 chs.;

Thence, in T. 26 S., R. 29 E., N. 57° E. 30.50 chs.; N. 52° E. 25.50 chs.; North 20.35 chs.;

Thence, in T. 26 S., R. 30 E. (North of Malheur Lake), N. 53°15′ E. 46.22 chs.; N. 66° E. 47.26 chs.; N. 55°15′ E. 14.08 chs.; N. 68°30′ E. 20.00 chs.; N. 79°15′ E. 10.00 chs.; N. 88°15′ E. 30.00 chs.; S. 81° E. 10.00 chs.; S. 76°15′ E. 21.12 chs.; S. 81° E. 20.00 chs.; S. 82°30′ E. 20.00 chs.; S. 80° E. 20.00 chs.; S. 75°30′ E. 27.09 chs.; S. 70° E. 38.00 chs.; S. 69° E. 19.85 chs.; S. 64° E. 40.00 chs.; S. 60° E. 51.40 chs.; S. 89° E. 20.39 chs.;

Thence, in a southeasterly direction across unsurveyed land, with the west line of the Sand Reef Division along the west base of the Sand Reef on the 4,095-ft. contour line to the place of beginning.

14. It is unnecessary to determine the rights in the areas here involved of the owners, other than Oregon, of uplands bordering on the meander line boundary, whether their claims are based upon reliction or the acquisition of an interest as an incident to grants by the United States of uplands bordering the meander line; and the rights of persons not parties to this suit are not herein determined. The adjudication of their rights is not prerequisite to maintenance of this suit or to the entry of an appropriate decree. It is not determined herein whether any part of the meander line boundary is or was in fact a true and correct meander line upon which the lands of such upland owners border, and no reference herein or in the Special Master's Report to such lines as meander line boundaries shall be taken as an adjudication of this question. The exceptions to the report of the Special Master filed by the United States herein are intended to confine the decision in this suit to the issues between the United States and the State of Oregon and to eliminate consideration of questions affecting the rights of the upland patentee proprietors and settlers who are not parties to the suit, and these exceptions are hereby sustained.

15. This decree shall neither bind nor inure to the benefit of third persons not parties to this suit.

16. The counterclaim of the State of Oregon is hereby dismissed except in respect of matters determined in paragraphs 5 and 8 of this decree.

17. Either party to this suit may apply to the Court for further orders and directions at the foot of the decree.

U. S. GOVERNMENT PRINTING OFFICE: 1939

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1934.

No. 13, Original

THE UNITED STATES OF AMERICA, *Plaintiff*,

vs.

THE STATE OF OREGON, *Defendant*.

Comes now The State of Oregon, by its Attorney General and asks leave of the Court to file its Motion for the Appointment of a Receiver of the area involved herein and for an Order making certain individuals and corporations parties defendant herein.

ISAAC H. VAN WINKLE,
Attorney General for Oregon.

STATEMENT IN SUPPORT OF MOTION

The Special Master, Hon. Garrett W. McEnerney, heretofore appointed as such by order of this Court dated April 13, 1931 to take evidence and to report the same to the Court with his findings of fact, conclusions of law and recommendations for a decree, all subject to examination, consideration, approval, modification or other disposal by the Court, duly filed his Report herein on October 15, 1934. He found that he was hampered in passing upon material questions involved due to the absence of riparian owners as parties defendant in this case. (Report of Special Mas-

ter, pages 63-64, page 67, subdivision 6, 71, 72.) See Defendant's Exceptions 121, 134-138, inclusive. He refused to pass upon the material question herein whether there were any relicted lands within the meander line boundary, due to the absence of such riparian owners and claimants to certain areas within the lakes. (Report of Special Master, page 31, lines 17, 18 and 19, 128, subdivision (b), 125.) See Defendant's Exceptions 61-70.

This case is a test suit upon the question of the title to the bed of inland lakes, in this country and the waters of such lakes. It has been before the Court, in prior cases, but this Court's pronouncements upon the question have left the matter in great uncertainty. Vast property rights are involved and the decisions of state courts are in hopeless conflict and there is much confusion and conflict in the lower federal courts. All parties interested in the *res* involved herein should be before the Court so that the important questions of real property law may be determined and no longer postponed.

The defect of parties defendant was called to the attention of the Special Master in the oral argument before him and filed here. See pages 2667-8.

ISAAC H. VAN WINKLE,
Attorney General for Oregon.

L. A. LILJEQVIST,
Assistant Attorney General.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1934.

No. 13, Original

THE UNITED STATES OF AMERICA, *Plaintiff*,

vs.

THE STATE OF OREGON, *Defendant*.

Motion for an Order appointing a Receiver Herein of the Area Involved and making Certain Individuals Parties Defendant Herein.

Comes now The State of Oregon, defendant above named, by its Attorney General and moves the Court for an order appointing a Receiver of the areas involved herein, which areas are described generally in the Executive Order of August 18, 1908, Exhibit B to Bill of Complaint, and specifically in Appendix 2, pages 7 to 25, inclusive, of the Report of the Special Master: Volume 2, filed herein October 15, 1934, so as to bring the *res* and all private persons claiming an interest therein within the complete jurisdiction of this Court and for an Order bringing in as proper, necessary and indispensable parties defendant herein the owners of uplands owning lots riparian to Malheur Lake, the Narrows, Mud Lake, the Sand Reef Division and Harney Lake and abutting upon the official J. H. Neal 1895-1896 Meander Line of said Malheur Lake, the Narrows, and the Sand Reef Division, and other official surveys of Harney Lake, all shown on Appendix 3, the Plate opposite page 4 of the Report of the Special Master: Volume 1, and also all claimants to areas within the Narrows and Malheur Lake, which areas are marked and numbered upon Plaintiff's Exhibit 22, received in evidence herein, as shown in the Joint Abstract of Record, page 132, and which areas

are referred to as Tracts numbered 1 to 73, inclusive, in Appendix 14, pages 74 to 77 inclusive, of the Report of the Special Master: Volume 2.

That the lands referred to in the foregoing Motion together with the name of the owner thereof at the time of the commencement of this suit, is given in the following list, and includes all those shown on Plaintiff's Exhibit 22, offered and received in evidence and a part of the Record herein, (Joint Abstract of Record, page 132), except uplands owned by the State of Oregon and except those individuals and corporations named on said Exhibit 22, who have since the filing of the Special Master's Report, contracted with and conveyed their riparian lands to the United States of America, plaintiff herein, and are omitted, such persons being named with a description of the lands conveyed in the Supplemental Answer tendered for filing herein, and they no longer are riparian claimants herein.

List of Riparian Owners

TOWNSHIP 26 SOUTH, RANGE 30 EAST, WILLAMETTE MERIDIAN, NORTH OF MALHEUR LAKE.

Section 36. Lots 1, 2, 3, 4. Owners Lulu S. Wilson and J. B. Wilson.

TOWNSHIP 26 SOUTH, RANGE 31 EAST, WILLAMETTE MERIDIAN, NORTH OF MALHEUR LAKE.

Section 32. Lot 1. Owner W. J. Dunn.
Section 28. Lot 2. Owner Lavina Griffin.
Section 27. Lots 2, 3, 4. Owner H. McKenzie.
Section 26. Lot 2. Owner Alexander McKenzie.
Section 25. Lot 1. Owner Alexander McKenzie.
Section 23. Lots 3, 4. Owner Alexander McKenzie.

TOWNSHIP 26 SOUTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, NORTH OF MALHEUR LAKE.

Section 18. Lots 4, 5. Owner W. Scott Haley.
Section 8. Lot 6. Owner H. M. Horton.

Section 4. Lot 11. Owner H. M. Horton.
Lots 10, 9, 12. Owner Pacific Livestock Co.
Section 4. Lot 13. Owner Pacific Livestock Company.
Section 3. Lots 12, 11. Owner Pacific Livestock Company.
Section 10. Lot 1. Owner H. M. Horton.
Section 3. Lots 10, 9. Owner Ethel B. Graves.
Lots 5, 6, 7. Owner Ethel B. Graves.
Lot 8. Owner Ethel B. Graves.
Section 2. Lot 5. Owner Ethel B. Graves.

TOWNSHIP 25 SOUTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, NORTH OF MALHEUR LAKE.

Section 36. Lots 3, 2. Owner Belle Hayes.

TOWNSHIP 25 SOUTH, RANGE 32½ EAST, WILLAMETTE MERIDIAN, NORTH OF MALHEUR LAKE.

Section 29. Lot 1. Owned by Fred Otley.
Section 20. Lots 6, 5. Owners Henry, Charles and Dick Otley and Annie Miller.
Section 21. Lots 10, W ½ of Lot 11. Owners Henry, Charles and Dick Otley.
E½ of Lot 11. Owner Fred Otley.
Lot 7. Owner Fred Otley.
Section 28. Lot 1. Owner Grant Thompson.
Section 27. Lots 3, 4, 2. Owner Grant Thompson.
Section 22. Lot 10. Owner Grant Thompson.
Lots 9, 8. Owner Minnie Catterson.
Section 25. Lots 4, 1. Owner Mrs. H. Denman.
Lots 3, 5. Owner Mrs. R. V. Waddell.

TOWNSHIP 25 SOUTH, RANGE 33 EAST, WILLAMETTE MERIDIAN.

Section 30. Lot 1. Owner Mrs. R. V. Waddell.
Section 19. Lot 12. Owner Mrs. R. V. Waddell.
Lot 8. Owner Rose Denman.
Lot 5, W½. Owner Rose Denman.
Section 20. Lots 14, 13. Owners Henry and Charles Otley.
Section 29. Lots 6, 5, 2, 4, 3. Owner W. A. Catterson.

TOWNSHIP 26 SOUTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, SOUTH OF MALHEUR LAKE.

Section 23. Lot 9. Owner James B. Ivy.
Section 22. Lots 3, 5, 6. Owner P. F. Dunn.
Section 27. Lots 5, 6, 7, 8. Owner P. F. Dunn.
Section 28. Lots 2, 3. Owner P. F. Dunn.

TOWNSHIP 26 SOUTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, SOUTH OF MALHEUR LAKE.

Section 31. Lots 5, 6, 7, 8. Owner Alfred Lee Marshall.

TOWNSHIP 26 SOUTH, RANGE 31 EAST, WILLAMETTE MERIDIAN, SOUTH OF MALHEUR LAKE.

Section 25. Lots 4, 3, 1, 2. Owners Culver H. and Violet Marshall.
Section 26. Lots 1, 2, 3, 4. Owners Lloyd and Lyle Hill.
Section 27. Lots 1, 2. Owners Lloyd and Lyle Hill.
Lots 3, 4. Owner D. H. Smyth.
Section 28. Lot 4. Owner D. H. Smyth.
Lots 3, 2. Owner Charles V. Reed.
Lot 1. Owner Philip E. Dunn.
Section 29. Lots 6, 5, 4, 3. Owner Philip E. Dunn.
Section 30. Lots 16, 15. Owner Harry L. Smith.

TOWNSHIP 26 SOUTH, RANGE 30 EAST, WILLAMETTE MERIDIAN, SOUTH OF MALHEUR LAKE.

Section 33. Lots 6, 5, 4, 3, 2. Owner W. J. Dunn.
Section 32. Lot 3. Owner A. J. Graves.
Lot 2. Owner W. J. Dunn.
Section 33. Lot 1. Owner W. J. Dunn.
Section 28. Lot 1. Owner W. J. Dunn.
Section 32. Lot 1. Owner W. J. Dunn.
Lots 3, 4. Owner A. J. Graves.
Lots 5, 6, 7. Owner W. J. Dunn.
Section 5. Lot 3. Owner W. J. Dunn.
Section 4. Lot 5. Owner W. J. Dunn.
Section 8. Lot 5. Owner Harney County.

Areas within the Meander Line and numbered as tracts 1 to 73, inclusive, on Plaintiff's Exhibit 22 a part of the record herein, together with the names of the claimants thereto are as follows:

Tract No.	*Name of Claimant*
1	G. Griffin
2	Henderson Elliott
3	A. Hembree
4	A. Creason
5	G. Griffin Estate
6	A. Creason
7	John Creasman Heirs
8	Scott Haley
9	F. Griffin
10	Bud Kidwell and wife
11	Mrs. Frank Dunn
12	James Vinyard
13	Mary Griffin
14, 15	W. A. Campbell
16	Pacific Livestock Company
17	Lem Vickers
18	Scott Haley
19	Bud Kidwell
20, 21	Charles Reed
22	O. H. Smith
23	Halph Hutchison
24	R. Smith
25	Lloyd and Lyle Hill
26, 27	Mrs. W. Huffman
28	W. Huffman
29	Lem Vickers
30	T. Vickers
31	John E. Graves
32, 33, 34	J. Bunyard
35	R. Smith
36, 37	J. Bunyard
38	R. Hutchison
39, 40, 41, 41A	Lloyd & Lyle Hill
42	Jim Gibson
43	George Benson
44, 45	Culver and Violet Marshall
46	John E. Graves
47	Dell Hayes
48	M. B. Hayes
49	Herman Ruh Heirs
51, 52	Luella & Trula Showen
53	J. J. Heinz
54, 55	Henry, Dick and Charles Otley
56	Henry and Dick Otley
57	Ora B. Hayes
58	C. B. Ausmus
59	Grant Thompson
61, 61A	Alfred L. Marshall
62	Ted Dunn
64	P. F. Dunn Heirs
65	Ted Graves
66, 67	Frank H. Leuder
68	Charles W. Chapman
69	Minnie Catterson
70	Ralph Catterson
71	H. Bechtel & G. Thompson
72	G. Thompson & R. Catterson
73	Mrs. R. V. Waddell

Respectfully submitted,

ISAAC H. VAN WINKLE,
Attorney General for Oregon.

L. A. LILJEQVIST,
Assistant Attorney General.